

Remarks

The above Amendments and these Remarks are in reply to the Office Action mailed August 23, 2004. No fee is due for the addition of any new claims.

Claims 1-46 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner has indicated that claims 1-46 are subject to restriction in accordance with one of the following three groups:

- I. Claims 1-32, drawn to a tool, classified in class 606, subclass 79;
- II. Claims 33-40, drawn to a method for implanting an artificial disk, classified in class 623, subclass 17.11; and
- III. Claims 41-46, drawn to a kit, classified in class 623, subclass 17.14.

Applicants elect, without traverse, Group I, Claims 1-32. Please withdraw Claims 33-46 without prejudice. The Applicants reserve the right to prosecute withdrawn Claims 33-46 in divisional and/or continuation applications as well as appeal restricted claims.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: 9/26/04

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